

SHOULDER-FIRED MISSILE THREAT REDUCTION ACT OF 2006

MARKUP BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TERRORISM AND NONPROLIFERATION OF THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

H.R. 5333

MAY 18, 2006

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SHOULDER-FIRED MISSILE THREAT REDUCTION ACT OF 2006

THURSDAY, MAY 18, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL TERRORISM
AND NONPROLIFERATION,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2 o'clock p.m. in room 2200, Rayburn House Office Building, Hon. Edward R. Royce (Chairman of the Subcommittee) presiding.

Mr. ROYCE. Pursuant to notice, I call up the bill H.R. 5333, the Shoulder-Fired Missile Threat Reduction Act of 2006, for purposes of markup and move its recommendation to the Full Committee.

Without objection, the bill will be considered as read and open for amendment at any point.

[H.R. 5333 follows:]

109TH CONGRESS
2D SESSION

H. R. 5333

To reduce the threat of terrorists acquiring shoulder-fired missiles.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2006

Mr. ROYCE (for himself, Mr. SHERMAN, Mr. WELLER, Mr. LANTOS, Ms. ROSELEHTINEN, Ms. WATSON, Mr. ISSA, Mr. CARDOZA, Mr. POE, Mr. MCCOTTER, Mr. WILSON of South Carolina, Mr. ISRAEL, and Ms. BEAN) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To reduce the threat of terrorists acquiring shoulder-fired missiles.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Shoulder-Fired Missile
5 Threat Reduction Act of 2006”.

6 SEC. 2. DEFINITIONS.

7 In this Act:

8 (1) MANPADS.—The term “MANPADS”
9 means—

1 (A) a surface-to-air missile system de-
2 signed to be man-portable and carried and fired
3 by a single individual; or

4 (B) any other surface-to-air missile system
5 designed to be operated and fired by more than
6 one individual acting as a crew and portable by
7 several individuals.

8 (2) CONVENTIONAL WEAPONS.—The term “con-
9 ventional weapons” means rocket propelled gre-
10 nades, landmines, abandoned stocks of munitions,
11 and other weapons the Secretary of State determines
12 the proliferation of which undermines international
13 peace and stability.

14 **SEC. 3. FINDINGS.**

15 Congress finds the following:

16 (1) The global proliferation of man-portable air
17 defense systems (MANPADS) and other conven-
18 tional weapons poses a direct threat to the national
19 security of the United States.

20 (2) The use of MANPADS and other conven-
21 tional weapons by terrorists and insurgent groups
22 continues to hamper United States efforts to achieve
23 peace and security in Iraq and Afghanistan.

1 (3) More than two-dozen terrorist groups, in-
2 cluding al-Qaeda, are believed to possess
3 MANPADS.

4 (4) On November 28, 2002, in Mombasa,
5 Kenya, two shoulder-fired missiles were fired at a
6 departing civilian airliner in an unsuccessful attack
7 claimed by al-Qaeda.

8 (5) A successful terrorist attack with a shoul-
9 der-fired missile against a civilian airliner would
10 have devastating human and incalculable economic
11 costs.

12 (6) The Government Accountability Office has
13 estimated that there are between 500,000 and
14 750,000 MANPADS in countries around the world,
15 with a few thousand outside government controls
16 and thousands more under government controls but
17 vulnerable to theft and possible transfer to terrorist
18 groups due to inadequate security.

19 (7) Many countries that possess stocks of
20 MANPADS and other conventional weapons no
21 longer require such weapons for their own security
22 or self-defense, but do not possess the means to
23 eliminate or safeguard such weapons systems.

24 **SEC. 4. SENSE OF CONGRESS.**

25 It is the sense of Congress that—

1 (1) where appropriate, the United States Gov-
2 ernment should provide assistance to countries seek-
3 ing to secure, remove, or eliminate stocks of
4 MANPADS and other conventional weapons that
5 pose a proliferation threat;

6 (2) where appropriate, the Secretary of State
7 should direct United States Ambassadors to such
8 countries to negotiate with appropriate officials of
9 their host countries to offer assistance to secure, re-
10 move, and eliminate stocks of MANPADS and other
11 conventional weapons that pose a proliferation
12 threat; and

13 (3) in light of the clear links between global
14 networks of terrorism and global networks of the il-
15 legal trade in conventional weapons, the United
16 States Government should place consistent, broad,
17 and continued emphasis on combating the prolifera-
18 tion of MANPADS and other conventional weapons
19 within the broader nonproliferation strategy of the
20 United States.

21 **SEC. 5. STATEMENT OF POLICY.**

22 It is the policy of the United States to assist the gov-
23 ernments of other countries to secure, remove, or eliminate
24 stocks of MANPADS and other conventional weapons that

1 pose a proliferation threat, local or regional security
2 threat, or humanitarian threat.

3 **SEC. 6. GLOBAL PROGRAM FOR THE SAFEGUARDING AND**
4 **ELIMINATION OF MANPADS AND CONVEN-**
5 **TIONAL WEAPONS.**

6 (a) IN GENERAL.—The Secretary of State is author-
7 ized to carry out an accelerated global program to secure,
8 remove, or eliminate stocks of MANPADS and other con-
9 ventional weapons, as well as related equipment and facili-
10 ties, that are determined by the Secretary to pose a pro-
11 liferation threat, local or regional security threat, or hu-
12 manitarian threat.

13 (b) PROGRAM ELEMENTS.—The program authorized
14 under subsection (a) may include the following activities:

15 (1) Programs to assist countries to secure, re-
16 move, and eliminate MANPADS and other conven-
17 tional weapons, including programs related to the
18 safe handling and proper storage of such
19 MANPADS and other conventional weapons.

20 (2) Cooperative programs with the North Atlan-
21 tic Treaty Organization, Organization for Security
22 and Cooperation in Europe, and other international
23 organizations to assist countries in the secure han-
24 dling and proper storage, removal, or elimination of
25 MANPADS and other conventional weapons.

1 (3) Programs for the management, including
2 inventory and accounting procedures, of MANPADS
3 and other conventional weapons at locations where
4 United States funds have been used to provide for
5 the security of such weapons.

6 (4) Actions to ensure that equipment and
7 funds, including security upgrades at locations for
8 the storage, removal, or elimination of MANPADS
9 and other conventional weapons and related equip-
10 ment that are determined by the Secretary of State
11 to pose a proliferation threat, local or regional secu-
12 rity threat, or humanitarian threat, continue to be
13 used for authorized purposes.

14 **SEC. 7. IMPOSITION OF SANCTIONS TO DETER THE TRANS-**
15 **FER OF MANPADS.**

16 (a) STATEMENT OF POLICY.—Congress declares that
17 it should be the policy of the United States to hold foreign
18 governments accountable for knowingly transferring
19 MANPADS to state-sponsors of terrorism or terrorist or-
20 ganizations.

21 (b) DETERMINATION RELATING TO SANCTIONS.—

22 (1) IN GENERAL.—If the President determines
23 that a foreign government knowingly transfers
24 MANPADS to a foreign government described in

1 paragraph (2) or a terrorist organization, the Presi-
2 dent shall—

3 (A) submit forthwith to the Committee on
4 International Relations of the House of Rep-
5 resentatives and the Committee on Foreign Re-
6 lations of the Senate a report containing such
7 determination; and

8 (B) impose forthwith on the transferring
9 foreign government the sanctions described in
10 subsection (c).

11 (2) FOREIGN GOVERNMENT DESCRIBED.—A
12 foreign government described in this paragraph is a
13 foreign government that the Secretary of State has
14 determined, for purposes of section 6(j) of the Ex-
15 port Administration Act of 1979, section 620A of
16 the Foreign Assistance Act of 1961, section 40 of
17 the Arms Export Control Act, or any other provision
18 of law, is a government that has repeatedly provided
19 support for acts of international terrorism.

20 (c) SANCTIONS DESCRIBED.—The sanctions referred
21 to in subsection (b)(1)(B) are the following:

22 (1) Termination of United States Government
23 assistance to the transferring foreign government
24 under the Foreign Assistance Act of 1961, except

1 that such termination shall not apply in the case of
2 humanitarian assistance.

3 (2) Termination of United States
4 Government—

5 (A) sales to the transferring foreign gov-
6 ernment of any defense articles, defense serv-
7 ices, or design and construction services; and

8 (B) licenses for the export to the transfer-
9 ring foreign government of any item on the
10 United States Munitions List.

11 (3) Termination of all foreign military financing
12 for the transferring foreign government.

13 (d) WAIVER.—Notwithstanding any other provision
14 of law, sanctions shall not be imposed on a transferring
15 foreign government under this section if the President de-
16 termines and certifies in writing to the Committee on
17 International Relations of the House of Representatives
18 and the Committee on Foreign Relations of the Senate
19 that the furnishing of the assistance, sales, licensing, or
20 financing that would otherwise be suspended as a result
21 of the imposition of such sanctions is important to the
22 national security interests of the United States.

23 (e) DEFINITIONS.—In this section:

1 (1) DEFENSE ARTICLE.—The term “defense ar-
2 ticle” has the meaning given the term in section
3 47(3) of the Arms Export Control Act.

4 (2) DEFENSE SERVICE.—The term “defense
5 service” has the meaning given the term in section
6 47(4) of the Arms Export Control Act.

7 (3) DESIGN AND CONSTRUCTION SERVICES.—
8 The term “design and construction services” has the
9 meaning given the term in section 47(8) of the Arms
10 Export Control Act.

11 (4) FOREIGN GOVERNMENT.—The term “for-
12 eign government” includes any agency or instrumen-
13 tality of a foreign government.

14 **SEC. 8. MULTILATERAL EFFORTS TO LIMIT THE AVAIL-**
15 **ABILITY AND TRANSFER OF MANPADS.**

16 (a) FINDINGS.—Congress finds the following:

17 (1) The United States Government has begun
18 to pursue commitments from countries in multilat-
19 eral forums to limit the availability, transfer, and
20 proliferation of MANPADS worldwide.

21 (2) However, multilateral forums lack mecha-
22 nisms for assessing member countries’ compliance
23 with such diplomatic commitments.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that the United States Government should continue

1 to pursue strengthened international diplomatic efforts in
2 the appropriate fora to limit the availability, transfer, and
3 proliferation of MANPADS worldwide and to exert appro-
4 priate diplomatic pressure to influence member country
5 compliance with such efforts.

6 **SEC. 9. REPORT ON MANPADS AND CONVENTIONAL WEAP-**
7 **ONS THREAT REDUCTION.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of the enactment of this Act and as circumstances
10 warrant thereafter, the Secretary of State, in consultation
11 with other appropriate government agencies, shall submit
12 to the Committee on International Relations and the Com-
13 mittee on Appropriations of the House of Representatives
14 and the Committee on Foreign Relations and the Com-
15 mittee on Appropriations of the Senate a report on
16 MANPADS and other conventional weapons threat reduc-
17 tion.

18 (b) CONTENTS.—The report required under sub-
19 section (a) shall include the following information for the
20 period preceding each such report:

21 (1) A description of efforts undertaken by the
22 Secretary of State regarding MANPADS and other
23 conventional weapons threat reduction.

24 (2) A description, on a country-by-country
25 basis, of the implementation of a global strategy for

1 the storage, removal, and elimination of MANPADS
2 and other conventional weapons, including, to the
3 extent possible, a prioritization of such storage, re-
4 moval, and elimination efforts with respect to the
5 proliferation sensitivity of such weapons in each
6 country and the potential impact of such efforts on
7 local and regional security.

8 (3) A description of multilateral efforts pursued
9 by the United States Government to limit the avail-
10 ability, transfer, and proliferation of MANPADS
11 worldwide, and a strategy to establish mechanisms
12 to monitor and report on—

13 (A) countries' implementation of their
14 commitments to limit such availability, transfer,
15 and proliferation; and

16 (B) the impact such implementation of
17 commitments has on the flow of MANPADS to
18 black and gray markets.

19 (4) A description and evaluation of the access
20 of terrorists, non-state actors, and state sponsors of
21 terrorism to MANPADS, their methods to acquire
22 MANPADS, and a strategy for disrupting future ac-
23 cess to MANPADS.

24 (5) An evaluation of the extent to which activi-
25 ties authorized by this Act and other United States

1 Government programs are integrated to ensure that
2 the conventional weapons threat reduction efforts of
3 the United States Government are consistent with
4 United States policy and goals in countries receiving
5 assistance through such activities.

6 (c) FORM.—The report required under subsection (a)
7 shall be in unclassified form, but shall contain a classified
8 annex, as appropriate.

9 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

10 (a) IN GENERAL.—In addition to amounts that are
11 otherwise authorized to be appropriated to the Non-
12 proliferation, Anti-Terrorism, Demining, and Related Pro-
13 grams account of the Department of State, there is au-
14 thorized to be appropriated \$15,000,000 for fiscal year
15 2007 and \$20,000,000 for fiscal year 2008 for activities
16 related to the securing, removal, or elimination of stocks
17 of MANPADS and other conventional weapons and re-
18 lated equipment and facilities.

19 (b) ADDITIONAL AUTHORITIES.—Amounts appro-
20 priated pursuant to subsection (a)—

21 (1) are authorized to be made available notwith-
22 standing any other provision of law; and

23 (2) are authorized to remain available until ex-
24 pended.

○

Mr. ROYCE. I would like to recognize myself for a brief opening statement.

Members will recall the Subcommittee's hearing with Assistant Secretary of State for Political-Military Affairs, John Hillen, where the threat of terrorists acquiring shoulder-fired missiles or MANPADS was addressed. At that hearing, a draft of a bill authored by myself and the Ranking Member, Mr. Sherman, was discussed. That bill became H.R. 5333, the Shoulder-Fired Missile Threat Reduction Act of 2006 which enjoys bipartisan support, including from many Members of the Subcommittee.

The goal of our legislation is to provide the State Department the authority and resources to undertake a robust effort to either destroy or to secure MANPADS around the world. As I said at our hearing, "the best defense is a good offense," so this proactive effort makes sense.

At the hearing, one question raised by Members was, "Is there a way for deterrence to be used against this threat?" In response, Assistant Secretary Hillen noted we can put producing and proliferating countries on notice that we consider this a significant threat.

So, what we have done is to add or incorporate this into H.R. 5333. We have incorporated a section that sanctions countries that knowingly transfer MANPADS to state sponsors of terrorism or to terrorist organizations.

The administration has expressed a concern with this provision despite the waiver authority granted by the legislation. However, I think Members will agree that this is an important part of the bill. I believe this bill will greatly enhance our government's ability to combat this threat to our national security.

I urge my colleagues to support it.

I want to recognize our Ranking Member, or frankly anyone who wishes to offer an opening statement. Mr. Sherman.

Mr. SHERMAN. Thank you, Mr. Chairman. Thank you for bringing this bill to our Subcommittee dealing with man-portable shoulder-fired anti-aircraft missiles, or MANPADS.

I am very pleased to cosponsor the bill with you. We have at least 29 other cosponsors. The MANPAD is obviously an ideal weapon for terrorists, not only to kill Americans in the air, but to hurt our economy should the attack be successful or even if the attack is unsuccessful. And of course, MANPADS are relatively cheap and obtainable.

There have been no attacks in the U.S. using MANPADS. However, there have been several attempts to bring those weapons into the United States or to acquire them for use in the United States. We all watched what happened in Kenya where there was an attempt to shoot down an Israeli airliner. We know at least 25 terrorist organizations probably have MANPADS, including al Qaeda and Hezbollah. And even if law enforcement is 100 percent effective in the future, it is already too late to prevent at least some MANPADS from falling into the hands of some of the world's most dangerous terrorists.

We are not only vulnerable here in the United States, but we are vulnerable abroad. If a U.S. commercial jet were to hit in Rome, it might have many of the same effects, both in terms of the num-

ber of Americans killed on the plane, and also on the economy. So the solution is not only to protect our borders to try to prevent MANPADS from coming into the United States, but to try to keep MANPADS out of the wrong hands around the world. And also to help those countries with MANPADS to make sure that they are safeguarded and don't fall into the wrong hands.

I think that this bill goes a long way. It would authorize \$15 million for 2007, \$20 million for 2008. I am pleased to work with you to urge the appropriators to fully fund the administration's request at \$8.75 million, and I think even more should be spent on this effort to take these weapons out of illegal circulation.

I agree with you there should be sanctions on those who create these weapons and then transfer them to terrorist organizations or terrorist-supporting states. I want to use this opportunity to call on the Department of Homeland Security to designate the kinds of countermeasures that U.S. airliners should have and to mandate their deployment and to urge the State Department to begin negotiating treaties with those countries into which our aircraft fly so that those planes are safe from spying while on the ground in these foreign airports.

We can't really have a regime of having countermeasures on our planes if there is no way to fly that plane to, say, Beijing without the Chinese looking at the countermeasure and perhaps designing their own MANPADS to avoid it or evade it.

So we have work to do not only in passing this bill, but also in getting State to make sure that our planes are secure from spying on the ground and to make sure that Homeland Security mandates countermeasures for both domestic and international flights.

I thank you for your work on this bill. I yield back.

Mr. ROYCE. Mr. Weller, do you have an opening statement?

Mr. WELLER. No, Mr. Chairman.

Mr. ROYCE. Mr. Chandler?

Mr. CHANDLER. Mr. Chairman, I support this bill very much. I thank you for your work on it. My only disappointment with it is that I am not a cosponsor, and I would like to become one. It is a very good bill.

Mr. ROYCE. We can rectify that. Without objection.

Mr. CHANDLER. I appreciate that. I support it wholeheartedly.

Mr. ROYCE. Are there any amendments to the underlying bill that anyone would like to make?

If not, the question occurs on the motion to report the bill, H.R. 5333, the Shoulder-Fired Missile Threat Reduction Act, favorably.

All those in favor say "aye." All opposed "no." The "ayes" have it. The motion is approved.

The bill is reported favorably and the staff is directed to make any technical and conforming amendments. I appreciate it. Let me share with the panel, thank you for your cooperation on this. The hearing stands adjourned.

[Whereupon, at 2:11 p.m., the Subcommittee was adjourned.]